

MARINO, TORTORELLA & BOYLE, P.C.

KEVIN H. MARINO
JOHN D. TORTORELLA**
JOHN A. BOYLE*
ROSEANN BASSLER DAL PRA*
EREZ J. DAVY*

ATTORNEYS AT LAW
437 SOUTHERN BOULEVARD
CHATHAM, NEW JERSEY 07928-1488
TELEPHONE (973) 824-9300
FAX (973) 824-8425
www.khmarino.com

e-mail: kmarino@khmarino.com
*ALSO ADMITTED IN NEW YORK
*ALSO ADMITTED IN PENNSYLVANIA

February 10, 2016

VIA ECF

Honorable James B. Clark, III, U.S.M.J.
United States District Court
District of New Jersey
U.S. Courthouse
2 Federal Square, Room 369
Newark, New Jersey 07101

Re: *In re Biogen '755 Patent Litigation*,
No. 2:10-cv-02734-CCC-JBC

Dear Judge Clark:

We write on behalf of Biogen to supplement our request that the Court convene a telephone conference regarding certain discovery disputes among the parties. In addition to the topics raised in our letter dated February 5, 2016 [ECF No. 387], we respectfully request that the Court also address a time-sensitive dispute between Biogen and Bayer about whether Biogen should be permitted to disclose to its damages expert certain documents designated by Bayer as “Confidential” and/or “Highly Confidential—Outside Attorneys’ Eyes Only” under the Protective Order [ECF No. 76].

On January 20, 2016, consistent with Paragraph 10 of the Protective Order, Biogen notified all parties that it intended to disclose documents designated “Confidential” and/or “Highly Confidential—Outside Attorneys’ Eyes Only” (“Confidential Documents”) to Dr. Kathleen Denis. Dr. Denis is the Associate Vice President in the Office of Technology Transfer at The Rockefeller University, who Biogen retained to opine on certain damages issues. In order for Dr. Denis to provide her opinion she must be permitted to review and rely on certain documents that have been designated under the Protective Order. In accordance with the Protective Order, Biogen provided the parties with a copy of Exhibit A to the Protective Order signed by Dr. Denis, a copy of her curriculum vitae, and a list of her past experience.

On February 3, 2016, Bayer notified Biogen that it objects to the disclosure of the Confidential Documents to Dr. Denis. Consistent with the requirements of the Protective Order, the parties subsequently met and conferred in a good-faith attempt to resolve Bayer’s concerns. Yesterday, it became apparent that the parties are at an impasse and will be unable to resolve this matter absent the Court’s involvement.

As Bayer noted in the letter it filed with your Honor yesterday [ECF No. 389], this issue is particularly time sensitive given that the current deadline for the parties to exchange their

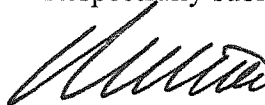
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opening expert reports is February 19, 2016. Although Bayer and Biogen agree that it would be sensible to extend the deadline for the exchange of expert reports for this and other reasons, Serono does not agree. We therefore respectfully request that the Court address this issue at your earliest convenience so that Biogen can make an appropriate motion on short notice, if necessary, to obtain an order permitting disclosure of the Confidential Documents to Dr. Denis before the expert disclosure deadline expires.

Thank you for your consideration of this submission.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Kevin H. Marino', written in a cursive style.

Kevin H. Marino

cc: All counsel of record